UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,463	07/18/2003	Peter Becker	17346-0008	2981

29052 7590 02/07/2007 SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309	**EXAMINER** RIDER, JUSTIN W

ART UNIT	PAPER NUMBER
2626	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	10/623,463	BECKER ET AL.
	Examiner	Art Unit
	Justin W. Rider	2626

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 July 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to communications: Application filed 17 July 2003. Claims 1-6

are pending.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Barker**

(USPN 5,818,800) referred to as **Barker** hereinafter, in view of **Eppler, Jr. (USPN 4,075,435)**

referred to as **Eppler.**

        Claim 1: **Barker** discloses a method and apparatus for automatic digital playback control,

comprising:

        i. electronically assigning a respective predetermined functionality each to a plurality of

key members or buttons (in which it is obvious to one having ordinary skill in the art that both

keys and buttons in the context of computer control serve as a controlling interaction between a

user and the device) in connection with the automatic reproduction of the digital audio data via

the audio data reproducing means and accessing the digital audio data stored in the memory

means based upon the predetermined functionality of one of the plural key members, causing the

digital audio data to be reproduced via the audio data reproducing means upon electronic

detection of an actuation of the one key member with the aid of the control unit, at first

outputting, for a predetermined period of time t, audio signals TSl that correspond to at least a

subset TMl of the digital audio data (col. 2, lines 52-67, buttons have been assigned a

predetermined functionality to determine a place to start and stop playback, as well as buttons to

record, pause, stop and playback the recording.). It is noted that both keys and buttons, without

respect to placement, are means for a user to interact with a computer system by actuating some

sort of control signal that alerts the system as to a user input, whether it be a keyboard or keypad,

which is a cluster of buttons.

However, **Barker** fails to, but **Eppler** does, distinctly disclose:

ii. automatically making periodic checks with the aid of the control unit to see whether

write data can be detected which were input via the keyboard in connection with a write program

executed in the computer device during the output of the audio signals TSl (col. 1, lines 20-25,

after the key functions were pressed to begin playback, the system automatically determines an

absence of words which were written to memory.); and

iii. immediately upon completion of the output of the audio signals TS1, the control unit

automatically causing further audio signals TS2 that correspond to another subset TM2,

successive to subset TM1 of the digital audio data, to be output via the audio data reproducing

means for the predetermined period of time t, if write data which were input through the

keyboard in connection with the write program executed in the computer device are detected

with the aid of the control unit upon completion of the output of the audio signals TS1; and, if

not, the reproduction of the digital audio data via the audio data reproducing means being

interrupted automatically (col. 1, lines 24-38, **Eppler** discloses wherein a user can select a

predetermined amount of a recording to be automatically played back in multiple bursts in conjunction with a typists typing speed.).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to include the teachings of **Eppler** in the method of **Barker** because it is advantageous in providing a system in which a record is automatically run and stopped to produce audible speech at a rate at which it can be transcribed by a typist (**Eppler**, col. 1, lines 5-10).

Claims 2 and 3: **Barker** and **Eppler** disclose a method as per claim 1 above, wherein reproducing of the digital audio data via the audio data reproducing means is interrupted for a predetermined interruption period tu, and subsequent to the interruption period tu the further audio signals TS2 are output automatically and wherein the predetermined period of time t is automatically set differently with the aid of the control unit (**Eppler**, col. 1, lines 24-38), depending on which of the plural key members of the keyboard was electronically detected to have been actuated (**Barker** discloses the use of keys to manipulate functions performed on an input recording, col. 2, lines 40-65).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to include the teachings of **Eppler** in the method of **Barker** for the reasons mentioned above in claim 1.

Claim 4: **Barker** and **Eppler** disclose a method as per claim 1 above, however failing to distinctly disclose wherein keys or buttons are implemented on a display means and actuation of the keys or buttons on the display device control predetermined functions.

Official Notice is taken that it is old and well known in within the computer arts to

display useable keys or buttons on a display means in order to carry out computer functions.

Graphical operating systems as well as most modern computer applications (equation editors,

calculators, media players, etc.) rely on displayed buttons in order to carry out essential functions

within an application (e.g. yes or no, open, print, save, use of numbers, etc.).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

of invention to include useable keys or buttons displayed on a display means in the method of

Barker and **Eppler** because it allows a user to implement functions while avoiding the awkward

position of continually looking down at keys in order to implement predetermined functions.

Claim 5: **Barker** and **Eppler** disclose a method as per claim 1 above, wherein electronic

text data are shown on the display means in the course of the reproduction of the digital audio

data via the audio data reproducing means, said electronic text data corresponding to electronic

speech recognition data which were generated automatically with the aid of a speech recognition

means on the basis of the digital audio data (**Barker**, col. 3, lines 35-41).

Claim 6: **Barker** discloses a computer device, comprising:

i. an audio data reproducing means for reproducing digital audio data (FIG. 4, component

20);

ii. a memory means for electronically storing the digital audio data (FIG. 4, component

64);

iii. a display means for the output of electronic image information (col. 1, lines 50-54,

'...particularly devices which have display screens...');

iv. an input means (FIG. 1, components 14, 16, and 18) including a keyboard for use by a

user to produce inputs; and

v. a control unit to control and/or monitor electronic data transfers between the audio data

reproducing means, the memory means, the input means with its keyboard, the display means

and/or the control unit, the control unit comprising (col. 4, lines 50-67, 'A controller 60 monitors

the status of buttons 16, 18; pointer 14; and local/portable mode switch 84.').

The remaining limitations of claim 6 are similar in scope and content to that of claim 1

above and therefore are rejected on the same grounds.

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure:

- **Sweet et al. (USPN 5,163,085)** discloses a digital dictation system.

- **Mitchell et al. (USPN 5,799,273)** and **Holt et al. (USPN 5,960,447)** disclose a

system for playing back speech related to recognized text.

- **Schulz et al. (USPN 6,360,237)** discloses a method and system for editing text

during audio recording playback.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Justin W. Rider whose telephone number is (571) 270-1068. The

examiner can normally be reached on Monday - Thursday 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David R. Hudspeth can be reached on (571) 272-7843. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J.W.R.
30 January 2007

DAVID HUDSPETH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600